overruled in many of the states. See *Seward* v. *Jackson,* 8 Cow. 406; *Babcock* v. *Eckler,* 24 N. Y. 623; *Wilson* v. *Kohlheim,* 46 Miss. 346; *Hoffman* v. *Nolte,* 127 Mo. 120. These courts have taken a broader view of such a transaction on the ground that considerations of morality or public interest do not require a man to refrain from any gift which promptings of generosity or of social duty may lead him to make when entirely solvent merely because of some outstanding debts. This is the view taken by most of the courts at the present time. In the principal case the Alabama rule as to voluntary conveyances was recognized, but was not applied for the reason that it appeared from the evidence that the conveyance was for a valuable consideration and no proof of intent to defraud creditors was made.

HOMESTEAD—WHEN LIABLE FOR DEBTS.—One West had made final proof of his claim to a federal homestead, but had not received a patent. Plaintiffs, judgment creditors of West, on a note made after final proof, sought to subject the homestead to payment of the judgment. Rev. St. § 2296 (U. S. Comp. St. 1901, p. 1398), provides that no homestead lands shall become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor. From judgment for defendant plaintiffs appealed. *Held,* the statute exempted the homestead until patent issued. *Sprinkle et al.* v. *West* (1911), — Wash. —, 114 Pac. 430.

In a few states the courts regard the federal law above cited as applying only until the homesteader's *right to* a patent has become absolute, not until he actually receives the patent. *Struby-Estabrook Mercantile Co.* v. *Davis,* 18 Colo. 93, 31 Pac. 495, 36 Am. St. Rep. 266; *Leonard* v. *Ross,* 23 Kan. 292; *Johnson* v. *Borin,* 7 Kan. App. 369, 54 Pac. 804; *Flanagan* v. *Forsythe,* 6 Okl. 225, 50 Pac. 152 (TARSNEY, J., dissenting vigorously). But the position taken by the Washington court is supported by the decisions of a majority of the courts in which the question has arisen. *In re Cohn,* 171 Fed. 568; *Barnard* v. *Boller,* 105 Cal. 219, 38 Pac. 728; *Schultz* v. *Levy,* 33 Or. 373, 54 Pac. 184; *Dickerson* v. *Bridges,* 147 Mo. 235, 48 S. W. 825. Considering the language of the act, this would seem to be the sounder view; and the fact that in the "timber culture" laws (U. S. Comp. St. 1901, p. 1535) exemption from debts "contracted prior to the issuance of the receiver's certificate" was provided for would seem to indicate that Congress meant exactly what it said in the act here considered. The contrary view is based on the theory that the patent, when issued, relates back to the time of the certificate. *Mercantile Co.* v. *Davis,* supra. This argument is answered thus by courts *contra*: The rule applies only in respect to *title,* not to exemption from debts; and "it is not for the courts to overrule its [*Congress'*] conclusions by a technical rule of construction." *Wallowa Nat. Bank* v. *Riley,* 29 Or. 289, 45 Pac. 766, 54 Am. St. Rep. 794.

HUSBAND AND WIFE—EXCEPTION TO PRESUMPTION OF COERCION—HOUSE OF ILL FAME.—Defendants were jointly indicted for keeping a house of ill fame and, as they were husband and wife, counsel argued that there existed a presumption that what the wife did was by the coercion of her husband and that, for this reason, she should be acquitted. *Held,* that although such a pre-

sumption exists, it does not apply to the crime of keeping a house of ill fame, since, quoting from HAWKINS, P. C. C., Chap. 1, Art. 12, "this is an offense as to the government of the house in which the wife has the principal share and also such an offense as may generally be presumed to be managed by the intrigue of her sex." *State* v. *Gill* (1911), — Iowa —, 129 N. W. 821.

At common law there was a definite rule that in certain classes of criminal cases the wife's acts done in the husband's presence, were presumed done under his coercion. HAWKINS, writing in 1716, limits the application of this rule to cases where the wife is engaged in theft in company with her husband or has been an accessory to a felony and excepts treason, murder and robbery from the presumption, even though she be actually coerced. He also makes the exception cited by the Iowa court in the case of bawdy houses. Different American courts have refused to recognize the presumption in cases of homicide, conspiracy, crimes malum in se or in which the wife is the principal agent, such as selling liquor, robbery where the wife actually did the act, mayhem and larceny by the husband's command. There exists, however, no well founded general rule upon the subject. The few cases in which the courts of the country have been asked to apply the common law rule in cases growing out of the keeping of houses of ill fame have uniformly denied that the presumption applies. *Comm.* v. *Cheney,* 114 Mass. 281; *State* v. *Jones,* 53 W. Va., 613, 45 S. E. 916; *Hudson* v. *Jennings,* — Ga. —, 67 S. E. 1037. The Iowa court has sustained the presumption in a case growing out of an indictment for attempting to produce a miscarriage, *State* v. *Fitzgerald,* 49 Iowa 260, 31 Am. Rep. 148; in murder, *State* v. *Kelly,* 74 Iowa 589, 38 N. W. 503; and in arson, *State* v. *Harvey,* 130 Iowa 394, 106 N. W. 938. *State* v. *Gill* is the first case in which the court has been called upon to apply the presumption doctrine in a case upon an indictment for keeping a house of ill fame and it has refused to admit the presumption, following the lead of the other courts which have declared themselves upon the point.

INJUNCTION—ACTION ON NOTE BY ATTORNEY AGAINST CLIENT—REMEDY AT LAW INADEQUATE.—Where a note was given by the complainant, the client, to the defendant, his attorney, in settlement of legal services, being executed at a time when the relation of attorney and client existed between the parties, and an action at law was brought by the attorney thereon, *Held,* that a bill for an injunction would lie to restrain further proceedings and to have an accounting to determine the amount justly due from the complainant to the defendant. *Kelley* v. *Schwinghammer* (1911), — N. J. Eq. —, 79 Atl 260.

In New Jersey, the courts follow the general rule that where, pending the relation of attorney and client, a bond, note, or other security is given by the client to the attorney for compensation for his services, the transaction will be considered as constructively fraudulent and the burden is thrown on the attorney to show its fairness, adequacy, and priority. *Brown* v. *Bulkley,* 14 N. J. Eq. 451, 458; *Nesbit* v. *Lockman,* 34 N. Y. 167; STORY EQ. JUR., § 310, et seq. Of course, equity will not enjoin the prosecution of a suit to which the party seeking the injunction may have an adequate defense at law. *Wat-*